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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOYLINA N. ARCENEAUX, an individual,

Plaintiff,

vs.

CREDIT ONE BANK, NA, INC., a Domestic
Corporation; DOES I through X, inclusive; ROE
CORPORATIONS I through X, inclusive,

Defendants.

CASE NO:

**COMPLAINT FOR WRONGFUL
TERMINATION**

COMES NOW, Plaintiff, JOYLINA N. ARCENEAUX (hereinafter, "Plaintiff"), by and through her counsel, the law firm of Hatfield & Associates, Ltd., and alleges upon information and belief against the above-captioned Defendants as follows:

PARTIES

1. At all times relevant hereto, Plaintiff, residing in Las Vegas, Clark County, Nevada, was and is an individual residing in the State of Nevada and was employed at CREDIT ONE BANK, NA, INC. (hereinafter "Defendant").

2. Plaintiff was an employee of Defendant within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e, et seq., and applicable case law.

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1 8. Venue is proper in the United States District Court for the District of Nevada
2 pursuant to 28 U.S.C. Section 1391(b), wherein Plaintiff resides, and Defendant resides and/or
3 regularly conducts business and where all the wrongful conduct occurred.

4 **ADMINISTRATIVE PREREQUISITES**

5 9. Plaintiff has complied with all the administrative prerequisites to action under Section
6 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000e-5 as
7 follows:
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9 10. Plaintiff was terminated from her employment on or about February 10, 2015, and
10 Plaintiff thereafter timely filed a formal charge of discrimination with the Equal Employment
11 Opportunity Commission [hereinafter "EEOC"].

12 11. Plaintiff promptly and diligently accommodated all EEOC requests for information
13 and fully cooperated in the agency's investigation of this matter;
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15 12. Plaintiff has exhausted all available administrative remedies in accord with the
16 aforementioned statutes prior to instituting this civil action, and received a Right to Sue from the
17 EEOC on or about June 10, 2015. This action is therefore timely.

18 13. Plaintiff demands a jury trial of this case pursuant to Local Rule 38-1 and 28 U.S.C.
19 Section 1411.
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21 **FACTUAL ALLEGATIONS**

22 14. Plaintiff is a qualified individual with a disability within the meaning of the
23 American's with Disabilities Act of 1990, and amendments thereto, and 42 U.S.C. Section 1201 et
24 seq., the Rehabilitation Act of 1973, and amendments thereto, and 26 U.S.C. Section 701 et seq., and
25 29 U.S.C. Section 2601 et seq.

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1 15. Plaintiff was hired by Defendant as a collections specialist. Upon information and
2 belief and at all relevant times, Defendant employed in excess of fifteen (15) employees for at least
3 twenty (20) calendar weeks from 2008 to the present time, and was further engaged in an industry
4 directly affecting interstate commerce.

5 16. At all relevant times, all matters regarding compensation, terms, conditions, rights
6 and privileges of Plaintiff's employment were governed and controlled by Defendant.

7 17. Upon information and belief and at all relevant times, certain individuals were acting
8 as supervisors, agents, servants and/or employees of Defendant. Defendant is therefore liable for the
9 acts and omissions of these individuals pursuant to the principals of ratification, respondeat superior
10 and actual and/or implied agency.

11 18. At all relevant times, Plaintiff fully, adequately and completely performed all of the
12 functions, duties and responsibilities of her employment with Defendant. Plaintiff informed
13 Defendant of a medical condition and need for accommodation. Plaintiff had been given leave and
14 an accommodation until she became temporarily unable to do her job due to a computer malfunction
15 on or about February 10, 2015. Plaintiff was retaliated against by her supervisor(s); she was accused
16 of insubordination when Plaintiff did not act insubordinately. Plaintiff was told she could be
17 terminated for failing to work even though her failing to work was due to computer malfunction.
18 Plaintiff was then terminated by her employer.

19 19. Plaintiff had informed Defendant she temporarily could not work due to her medical
20 condition. She requested accommodation and leave, which was provided to her initially only to be
21 rescinded by Defendant without notice or opportunity for engagement in an interactive process for
22 accommodation for her disability.

23 20. Plaintiff was terminated due to her disability and for having taken leave that
24 Defendant found excessive, and was discharged by her employer on or about February 10, 2015.
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CAUSES OF ACTION

FIRST CAUSE OF ACTION

Wrongful Termination Under the ADA

21. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

22. Defendant initially provided accommodation to Plaintiff, giving leave to Plaintiff when medically necessary, then revoked accommodation and thereafter refused to provide Plaintiff with reasonable accommodation for his disability, although Plaintiff was capable of performing her duties.

23. Defendant continually, intentionally, and in a discriminatory manner refused to accommodate Plaintiff in her position because of her disability and for taking intermittent leave when medically necessitated.

24. Defendant's termination of Plaintiff was not based upon any medical justification or other reasonable reason and was discriminatory as to Plaintiff. Defendant terminated Plaintiff without just cause and because of her disability.

25. Such adverse employment action by Defendant was in violation of the ADA.

26. Following Defendant's termination of Plaintiff, based upon information and belief, Plaintiff was replaced by a non-disabled individual.

27. As a result of Defendant's above-stated actions, Plaintiff has suffered irreparable injuries and deprivation of income in the form of wages and prospective benefits, promotion opportunities and job assignments due to her as an employee, and emotional pain and suffering, mental anguish, humiliation, embarrassment, indignity, and other intangible injuries in an amount to be proven at trial.

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1 mental anguish, humiliation, embarrassment, indignity, and other intangible injuries in an amount to
2 be proven at trial.

3 36. Plaintiff should be awarded punitive damages as well because of Defendant's
4 extreme and outrageous conduct.

5 37. As a further result of Defendants' above-stated actions, it has been necessary for
6 Plaintiff to obtain the services of the law offices of Hatfield & Associates, Ltd., to prosecute this
7 action, and Plaintiff is entitled to reimbursement for those attorney's fees and costs which have been
8 reasonably incurred.

10 **THIRD CAUSE OF ACTION**

11 **Retaliation Under the ADA**

12 38. Plaintiff incorporates by reference the allegations set forth in the preceding
13 paragraphs of the Complaint as though set forth at length herein.

14 39. Defendant initially provided accommodation to Plaintiff, then revoked
15 accommodation and thereafter refused to provide Plaintiff with reasonable accommodation for her
16 disability, although Plaintiff was capable of performing her duties.

17 40. Defendant continually, intentionally, and in a discriminatory manner refused to
18 accommodate Plaintiff in her position because of her disability.

19 41. Defendant's termination of Plaintiff was not based upon any medical justification or
20 other reasonable reason and was discriminatory as to Plaintiff. Defendant terminated Plaintiff
21 without just cause and because of her disability.

22 42. Such adverse employment action by Defendant was in violation of the ADA.

23 43. As a result of Defendant's above-stated actions, Plaintiff has suffered irreparable
24 injuries and deprivation of income in the form of wages and prospective benefits, promotion
25 opportunities and job assignments due to her as an employee, and emotional pain and suffering,
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1 mental anguish, humiliation, embarrassment, indignity, and other intangible injuries in an amount to
2 be proven at trial.

3 44. Plaintiff should be awarded punitive damages as well because of Defendant's
4 extreme and outrageous conduct.

5 45. As a further result of Defendant's above-stated actions, it has been necessary for
6 Plaintiff to obtain the services of the law offices of Hatfield & Associates, Ltd., to prosecute this
7 action, and Plaintiff is entitled to reimbursement for those attorney's fees and costs which have been
8 reasonably incurred.

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10 **REQUEST AND PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment and damages against Defendants as follows:

- 12 1. Enter an injunction ordering Defendant to make Plaintiff whole with full back pay,
13 benefits and reinstatement to a position Plaintiff would have obtained in the absence of
14 discrimination or, in the alternative, front pay;
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16 2. An award to Plaintiff for compensatory damages in amount to be shown at trial for past
17 and future economic and non-economic losses within this Court's jurisdiction subject to
18 proof;
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20 3. An award to Plaintiff for general damages within this Court's jurisdiction subject to
21 proof;
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23 4. An award to Plaintiff for exemplary and/or punitive damages.
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25 5. An award to Plaintiff for reasonable attorney's fees and costs, including but not limited to
26 expert witness fees, and as provided under state law;
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28 6. An award to Plaintiff of interest on any awards at the highest rate allowed by law; and

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